

111TH CONGRESS  
1ST SESSION

# H. R. 1770

To amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2009

Mr. SALAZAR (for himself, Mrs. CAPITO, and Ms. MARKEY of Colorado) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dam Rehabilitation  
5 and Repair Act of 2009”.

6 **SEC. 2. REHABILITATION AND REPAIR OF DEFICIENT**  
7 **DAMS.**

8 (a) DEFINITIONS.—Section 2 of the National Dam  
9 Safety Program Act (33 U.S.C. 467) is amended—

1 (1) by striking paragraph (3);

2 (2) by redesignating paragraphs (1) and (2) as  
3 paragraphs (2) and (3), respectively;

4 (3) by inserting before paragraph (2) (as redesignated by paragraph (2) of this subsection) the following:  
6

7 “(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal  
8 Emergency Management Agency.”;

10 (4) by redesignating paragraphs (4), (5), (6),  
11 (7), (8), (9), (10), (11), (12), and (13) as paragraphs (5), (6), (7), (8), (9), (10), (13), (14), (15),  
12 and (16), respectively;

14 (5) by inserting after paragraph (3) (as redesignated by paragraph (2) of this subsection) the following:  
16

17 “(4) DEFICIENT DAM.—The term ‘deficient dam’ means a dam that the State within the boundaries of which the dam is located determines—

20 “(A) fails to meet minimum dam safety  
21 standards of the State; and

22 “(B) poses an unacceptable risk to the  
23 public.”; and

(6) by inserting after paragraph (10) (as redesignated by paragraph (4) of this subsection) the following:

“(11) PUBLICLY-OWNED DAM.—

“(A) IN GENERAL.—The term ‘publicly-owned dam’ means a dam that is owned by 1 or more State agencies or governments, local governments, or municipal governments.

“(B) INCLUSIONS.—The term ‘publicly-owned dam’ includes a dam owned by a non-profit organization that—

“(i) is established by 1 or more State, local, or municipal governments; and

“(ii) provides public benefits, such as—

“(I) local flood control districts;

“(II) regional public water utilities; and

“(III) local irrigation districts.

“(12) REHABILITATION.—The term ‘rehabilitation’ means the repair, replacement, reconstruction, or removal of a dam that is carried out to meet applicable State dam safety and security standards.”.

(b) PROGRAM FOR REHABILITATION AND REPAIR OF DEFICIENT DAMS.—The National Dam Safety Program

1 Act is amended by inserting after section 8 (33 U.S.C.  
2 467f) the following:

3 **“SEC. 8A. REHABILITATION AND REPAIR OF DEFICIENT**  
4 **DAMS.**

5 “(a) ESTABLISHMENT OF PROGRAM.—The Adminis-  
6 trator shall establish, within FEMA, a program to provide  
7 grant assistance to States for use in rehabilitation of defi-  
8 cient dams that are publicly-owned dams.

9 “(b) AWARD OF GRANTS.—

10 “(1) APPLICATION.—

11 “(A) IN GENERAL.—A State interested in  
12 receiving a grant under this section may submit  
13 to the Administrator an application for the  
14 grant.

15 “(B) REQUIREMENTS.—An application  
16 submitted to the Administrator under this sec-  
17 tion shall be submitted at such time, be in such  
18 form, and contain such information as the Ad-  
19 ministrator may prescribe by regulation.

20 “(2) GRANT.—

21 “(A) IN GENERAL.—The Administrator  
22 may make a grant in accordance with this sec-  
23 tion for rehabilitation of a deficient dam to a  
24 State that submits an application for the grant

1 in accordance with the regulations prescribed by  
2 the Administrator.

3 “(B) PROJECT GRANT AGREEMENT.—The  
4 Administrator shall enter into a project grant  
5 agreement with the State to establish the terms  
6 of the grant and the project, including the  
7 amount of the grant.

8 “(3) APPLICABILITY OF REQUIREMENTS.—The  
9 Administrator shall require a State receiving a grant  
10 under this section to comply with requirements ap-  
11 plicable to contributions of Federal funds under sec-  
12 tion 611(j)(9) of the Robert T. Stafford Disaster  
13 Relief and Emergency Assistance Act (42 U.S.C.  
14 5196(j)(9)), as in effect on the date of enactment of  
15 this section, in carrying out a project funded using  
16 amounts from the grant.

17 “(c) PRIORITY SYSTEM.—The Administrator, in con-  
18 sultation with the Board, shall develop a risk-based pri-  
19 ority system for use in identifying deficient dams for which  
20 grants may be made under this section.

21 “(d) ALLOCATION OF FUNDS.—The total amount of  
22 funds appropriated pursuant to subsection (h)(1) for a fis-  
23 cal year shall be allocated for making grants under this  
24 section to States applying for the grants for that fiscal  
25 year as follows:

1 “(1)  $\frac{1}{3}$  divided equally among applying States.

2 “(2)  $\frac{2}{3}$  divided among applying States based on  
3 the proportion that—

4 “(A) the number of non-Federal publicly-  
5 owned dams that the Secretary of the Army  
6 identifies in the national inventory of dams  
7 maintained under section 6 as constituting a  
8 danger to human health and that are located  
9 within the boundaries of the State; bears to

10 “(B) the number of non-Federal publicly-  
11 owned dams that are so identified and that are  
12 located within the boundaries of all applying  
13 States.

14 “(e) USE OF FUNDS.—None of the funds provided  
15 in the form of a grant or otherwise made available under  
16 this section shall be used—

17 “(1) to rehabilitate a Federal dam;

18 “(2) to perform routine operation or mainte-  
19 nance of a dam;

20 “(3) to modify a dam to produce hydroelectric  
21 power;

22 “(4) to increase water supply storage capacity;  
23 or

24 “(5) to make any other modification to a dam  
25 that does not also improve the safety of the dam.

1       “(f) COST SHARING.—The Federal share of the cost  
2 of rehabilitation of a deficient dam for which a grant is  
3 made under this section may not exceed 65 percent of the  
4 cost of the rehabilitation.

5       “(g) CONTRACTUAL REQUIREMENTS.—

6           “(1) IN GENERAL.—Subject to paragraph (2),  
7 as a condition on the receipt of a grant under this  
8 section, a State that receives the grant shall require  
9 that each contract and subcontract for program  
10 management, construction management, planning  
11 studies, feasibility studies, architectural services,  
12 preliminary engineering, design, engineering, sur-  
13 veying, mapping, and related services entered into  
14 using funds from the grant be awarded in the same  
15 manner as a contract for architectural and engineer-  
16 ing services is awarded under—

17           “(A) chapter 11 of title 40, United States  
18 Code; or

19           “(B) an equivalent qualifications-based re-  
20 quirement prescribed by the State.

21       “(2) NO PROPRIETARY INTEREST.—A contract  
22 awarded in accordance with paragraph (1) shall not  
23 be considered to confer a proprietary interest upon  
24 the United States.

25       “(h) AUTHORIZATION OF APPROPRIATIONS.—

1           “(1) IN GENERAL.—There are authorized to be  
2           appropriated to carry out this section—

3                   “(A) \$10,000,000 for fiscal year 2010;

4                   “(B) \$15,000,000 for fiscal year 2011;

5                   “(C) \$25,000,000 for fiscal year 2012;

6                   “(D) \$50,000,000 for fiscal year 2013;

7                   and

8                   “(E) \$100,000,000 for fiscal year 2014.

9           “(2) STAFF.—There is authorized to be appro-  
10          priated to provide for the employment of such addi-  
11          tional staff of FEMA as are necessary to carry out  
12          this section \$400,000 for each of fiscal years 2010  
13          through 2014.

14          “(3) PERIOD OF AVAILABILITY.—Amounts  
15          made available under this section shall remain avail-  
16          able until expended.”.

17   **SEC. 3. RULEMAKING.**

18          (a) PROPOSED RULEMAKING.—Not later than 90  
19          days after the date of enactment of this Act, the Adminis-  
20          trator of the Federal Emergency Management Agency  
21          shall issue a notice of proposed rulemaking regarding the  
22          amendments made by section 2 to the National Dam Safe-  
23          ty Program Act (33 U.S.C. 467 et seq.).

24          (b) FINAL RULE.—Not later than 120 days after the  
25          date of enactment of this Act, the Administrator of the



- 1 Federal Emergency Management Agency shall promulgate
- 2 a final rule regarding the amendments described in sub-
- 3 section (a).

